

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X
3RD DIMENSION, INC.,

Petitioner,

vs.

INDEX No. 603401/07

SKYWARD MOBILE, LLC and
JEREMY De BONET,

AFFIDAVIT OF JEREMY De BONET

Respondents.

----- X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JEREMY De BONET, duly sworn, deposes and says:

1. I am the founder and Chief Executive Officer of Respondent Skyward Mobile, LLC ("Skyward"). I make this affidavit in order to place certain facts before the Court that it may consider on Plaintiff's application for a Preliminary Injunction. A hearing on this matter is scheduled for October 18, 2007 at 2:00 p.m.

2. I hold a B.S. in Applied Mathematics from Columbia University and an M.S. in Computer Science from the Massachusetts Institute of Technology. I have more than 35 scientific publications and more than 60 patents and patents pending. In 2005, I received the Emmy Award for Outstanding Achievement in Engineering Development from the Academy of Television Arts & Sciences.

3. Previously, I was the CTO of MobiTV, the founder and CTO of Assemble Media, Inc., acquired by ClickRadio in 2001 and the acting CTO of AM/FM New Media and Internet Strategist for Clear Channel Communications.

FACTUAL BACKGROUND

4. In early 2006, I and Michael Wessler co-founded Skyward. It is a privately held company consisting of a team of more than 20 people who represent decades of collective experience in the mobile industry, including work at Nortel Networks, Sun Microsystems, Microsoft, Honda Research, Clear Channel Communications, Harvard and MIT. Together, the team holds more than 70 patents and patents pending.

SKYWARD AND THIRD DIMENSION ENTER INTO A WORK FOR HIRE

5. On or about March or April 2006, Skyward made a sales presentation to develop 3rd Dimension's mobile traffic application. The sales presentation included preexisting software applications that were developed by Skyward and could be useful to 3rd Dimension's proposed product.

6. Based on the sales presentation, 3rd Dimension requested that Skyward develop for 3rd Dimension a software application that would allow users to view live video from traffic cameras on a mobile phone. Skyward provided the first source code for the software application to 3rd Dimension on April 25, 2006. 3rd Dimension and Skyward memorialized our agreement in the Work Order dated May 1, 2006.

7. Contrary to Mr. Laskin's affidavit, prior to the Work Order, 3rd Dimension did not have any mobile traffic application, and never supplied any preexisting technology or IP to Skyward.

8. Under the Work Order, Skyward developed a software application that had two parts to the source code: client source code (which was developed by Mike Wessler) and server source code (developed by me). The server source code would allow 3rd Dimension to specify traffic camera web-cam feeds it compiled from the New York Department of Transportation and send as appropriate those image streams to the user's mobile phone. In turn, the client source code allowed those image streams data to be viewed by the user in a continuous loop of 4 video

frames (motion jpegs – similar to photographs) of traffic information, which were then updated periodically as network conditions would allow.

9. When viewing 3rd Dimension's product on a cell phone, the user views a list of areas, then roads, then cameras in different parts of the New York metropolitan area. The user then chooses a particular camera and is provided with a repeating loop of four (4) video frames or snapshots of real time images of traffic in that particular area. The application uses motion JPEG to simulate motion video. 3rd Dimension's product also grants the user the ability to browse up and down the different available cameras on a given road and select and set certain cameras as favorites.

10. The Work Order only granted 3rd Dimension limited intellectual property rights in processes, designs, innovations and improvements (including any source code) that were designed or developed by Skyward "solely in connection with the performance of Services." I noticed that Mr. Laskin's affidavit omitted to quote this contract language. Accordingly, to the extent Skyward used preexisting source code in the 3rd Dimension product, such code did not and does not belong to 3rd Dimension. Moreover, the parties agreed that the source code would not be delivered to 3rd Dimension until and unless Skyward had received the compensation for its services, in full. To date, 3rd Dimension had not paid Skyward in full for its services, but Skyward in good faith delivered to 3rd Dimension.

11. In addition, 3rd Dimension granted to Skyward an irrevocable, non-transferable license for the use of the intellectual property relating to the product created by Skyward in non-competing businesses with respect to 3rd Dimension. As a result, the Work Order contemplated that Skyward may compete with 3rd Dimension in the traffic market, just not utilizing the technology that Skyward developed for 3rd Dimension.

12. The Work Order and the accompanying documents did not prevent Skyward from competing with 3rd Dimension in any market, or with any products, including a traffic cam product. Even though to date, Skyward has not yet produced another traffic cam product, nothing in the Work Order or any other agreements between the parties prevents Skyward from creating, marketing and selling a traffic cam product, even one similar to 3rd Dimension's product.

13. Skyward completed a majority of work for 3rd Dimension under the Work Order (except for minor adjustments) on its software application by late June 2006.

**SKYWARD HAS NEVER USED ANY OF THIRD
DIMENSION'S PROPRIETARY INFORMATION.**

14. Contrary to Mr. Laskin's affidavit, Skyward does not use and never has used any of 3rd Dimension's technology, confidential information or trade secrets in its products or business.

15. Skyward does not use and has never used 3rd Dimension's software application (including the source code) in its products or business. All of Skyward's products are based on its novel APX platform (which is described below) which was not used or developed for 3rd Dimension, and is an entirely different technology.

16. Other than the source code Skyward produced for it (which the company keeps in a secure and confidential source code repository), Skyward does not have, nor has it used any information (proprietary or otherwise) belonging to 3rd Dimension, including but not limited any source code, marketing plans, market research or information regarding its business model or relationships with third parties.

17. Skyward also has never has accessed or used 3rd Dimension's proprietary hardware platform or "feeds" except in connection with work done for 3rd Dimension.

18. Contrary to Mr. Laskin's affidavit, neither Skyward nor I have been offering for sale a traffic cam system that is nearly identical 3rd Dimension's traffic cam application. In addition, Skyward has not submitted proposals to third parties to build a traffic cam application which is strikingly similar to 3rd Dimension's product. Indeed, the Skyward's proposal to Global Traffic Network was based on entirely different software platform and language (APX). Moreover, the Global Traffic Network proposal appended to Mr. Laskin's affidavit notes that the APX platform is not derivative of any other application deployed by Skyward, and is a unique application. Global Traffic Network ultimately did not purchase the software from Skyward. Furthermore, the proposal to Global Traffic Network contemplated a product far superior to the 3rd Dimension product in that, among several other significant benefits, it envisioned using a highly graphical user interface and full motion video. This is far different from the text menu interface and 4 frame loops in the 3rd Dimension product.

19. In addition, Mr. Laskin is wrong that Skyward has been using the demonstration program to sell anything. As an initial matter, the demonstration was developed to provide an example of Skyward's capabilities. It has not been offered for sale commercially. Moreover, the exemplar was developed independently of the 3rd Dimension product, does not use the same source code of the 3rd Dimension product, and has input and output functionality lacking in the 3rd Dimension product. In addition, the traffic images that appear in the demonstration were pulled directly from the New York Department of Transportation's website, which anyone can access and download as those images are both publicly available and in the public domain. Thus, in creating this demo Skyward did not use 3rd Dimension's proprietary hardware or use 3rd Dimension's "feeds."

20. In addition, 3rd Dimension is not the only provider of live traffic information available on the internet. There are a number of companies that provide live travel information on the internet, including Google, TomTom and Magellan (portable GPS navigation systems)

and Garmin traffic receivers. On 3rd Dimension's own website they refer to an article which references another similar product created by Inrix, which "provides real-time traffic updates, accident reports, and more." And "according to Inrix, the service is available in more than 65 major markets across the U.S., and that number should be up to full coverage of 92 markets by the end of the year."

SKYWARD DEVELOPS AND MARKETS A NEW SOFTWARE PLATFORM

21. In August 2006, Skyward developed a new technology platform, called APX, that allows a company to develop mobile applications that provide consumers with the optimal mobile experience for accessing any digital content and service on virtually every device. Skyward's APX technology enables mobile applications to be written more quickly than ever before, and ensures they are automatically supported on virtually any mobile or handheld device, delivering rich and seamless user experiences to the consumer regardless of the limitations of the hardware or network. 3rd Dimension's product cannot do this.

22. At the time Skyward developed the technology for 3rd Dimension, Skyward's APX technology had not been written or developed. No proprietary information either owned by 3rd Dimension or developed for it was used by Skyward in developing the APX technology.

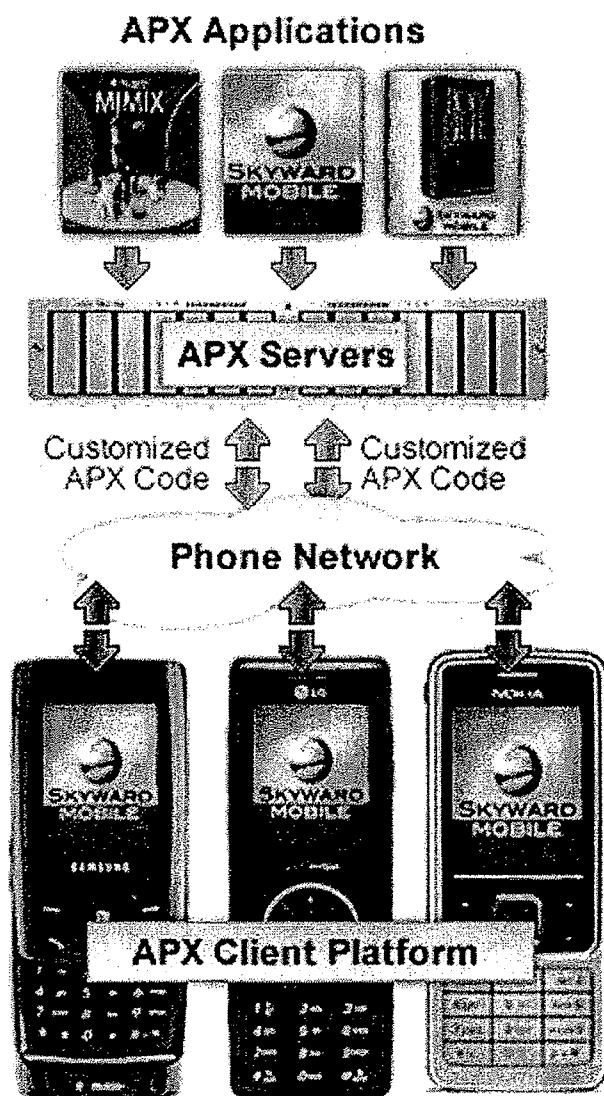
23. Skyward has filed multiple patent applications on its APX technology.

24. Unlike the 3rd Dimension application, Skyward's patent-pending APX platform delivers a number of unique advantages, including:

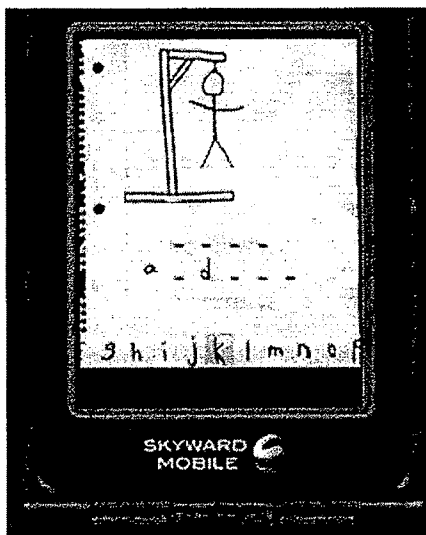
- The delivery of a compelling, intuitive user interface that is unlimited in size, extendible and evolvable without forcing consumers to endure cumbersome upgrade cycles;
- The elimination of network latency, allowing the consumer to have seamless access to unlimited amounts of data without loading pauses;

- A robust write-once, run-everywhere environment, enabling the widest handset reach for the most effective monetization of the application development. This allows high-margin “long tail” applications to be written and deployed;
- A revolutionary reduction in time to market. Where other companies require hundreds of man-hours to write a single application and even more to port it onto multiple handsets, Skyward can create applications with five people in just one month

25. Below is a visual depiction of what Skyward’s APX application provides to its customers – a promise to deliver any application to any phone over any carrier for such diverse applications as a music player, an indexed reader for the King James Bible and casual games such as hangman.

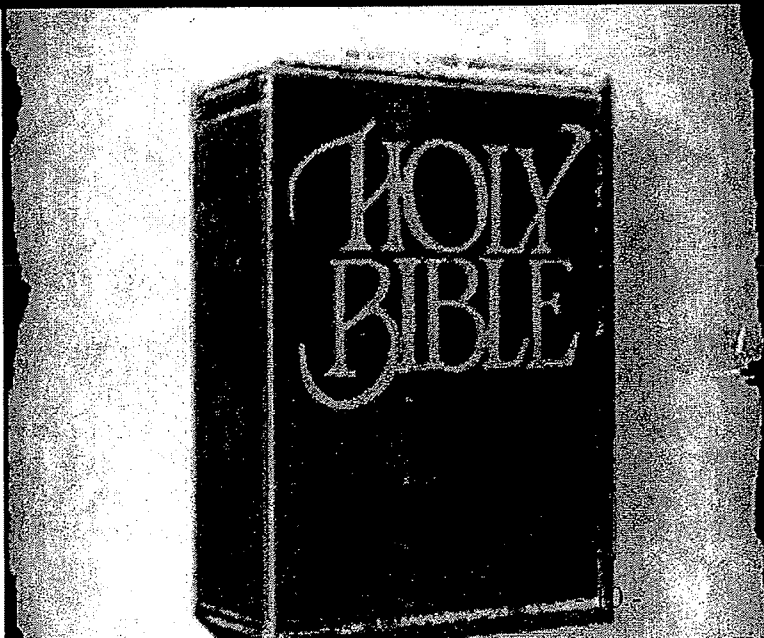
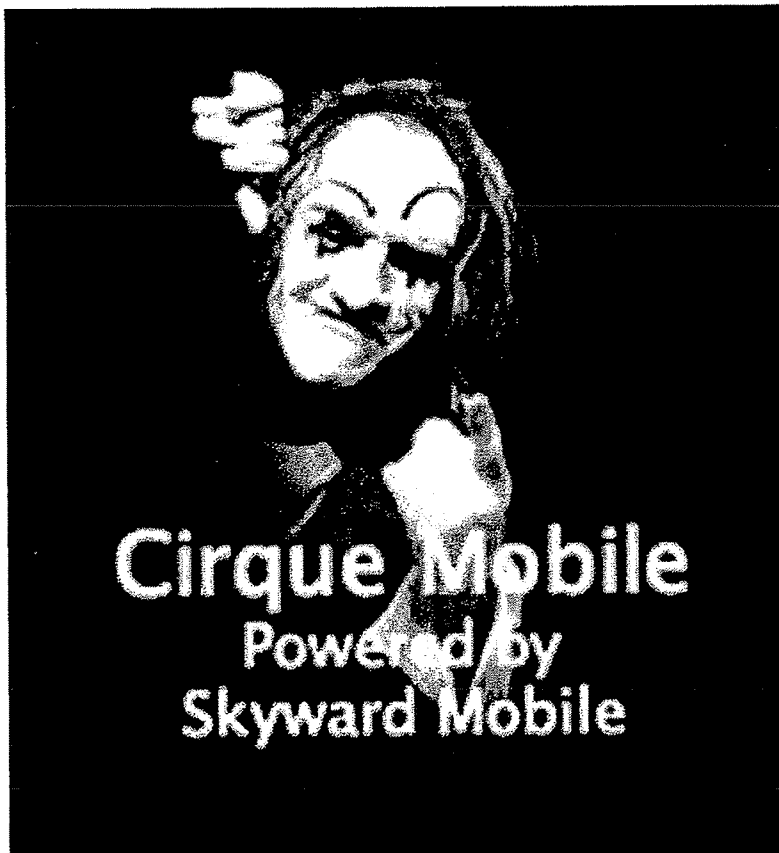


26. Unlike earlier applications that needed to be re-developed or customized for each new device, Skyward's APX technology allows the company to build programs such as the hangman game shown below, which can run on a wide variety of mobile devices without requiring further fine-tuning. APX automatically adjusts software to suit device characteristics such as screen size and processing power. 3rd Dimension's product cannot do this, and can only be an application which allows users to pick and view web cameras.



27. Significantly and in marked contrast to 3rd Dimensions technology, Skyward's APX technology can be used to create hundreds or even thousands of different kinds of applications, ranging from calendars, to comic book readers, to video-on-demand, to instant messengers, to stock trackers. Some screenshots from some of the initial products based upon APX are shown below: 1) SkywardReader an RSS feed reader; 2) Cirque, an m-commerce and content discovery application; 3) the Holy Bible, a mobile scripture reader; 4) uVuRadio, an interactive radio product; and 5) Platinum Mobile, a comic book reader.







28. At the current time, consumers can purchase and download individual Skyward applications through Sprint and AT&T, as well as directly from the company through its website.

SKYWARD INFORMS 3RD DIMENSION THAT IT INTENDS TO MARKET ITS OWN TRAFFIC APPLICATION USING ITS APX PLATFORM

29. After the development of its APX technology, Skyward was approached by Global Traffic Network to develop a new traffic application, creating and using its own source code, and own software language APX. Despite not being obligated to do so, in approximately September 2006, I and another employee of Skyward, telephoned Mr. Laskin, to inform him of Skyward's plans to develop this product for Global Traffic. I told Mr. Laskin that Skyward would be using its new platform and unique source code to build a new traffic application. Mr. Laskin asked what software technology Skyward would be using. I replied that we were using completely different software technology than what had been developed for 3rd Dimension. Mr. Laskin replied that he was not happy about the competition, but did not object. In addition, Mr. Laskin was aware of Skyward's new APX platform because Skyward had made a sales presentation to 3rd Dimension about it, in connection with attempting to sell more and robust services to 3rd Dimension. In particular a proposal was given to 3rd Dimension around the DoubleAgent product, which described and would be based on APX. (See this proposal attached hereto as Exhibit A.)

30. Global Traffic Network did not purchase any software applications from Skyward.

31. In addition, the so-called "demonstration" that Mr. Laskin claims uses his proprietary information was publicly available on Skyward's website for over one year, starting around September 11, 2006. Mr. Laskin has never contacted me or anyone at Skyward regarding the demonstration, after he was told about it in 2006.

32. Despite being required under the Work Order to resolve disputes short of litigation, 3rd Dimension has never contacted Skyward regarding Skyward's alleged breach of the contract or misappropriation of trade secrets. I was extremely surprised by his disregard of that provision of our contract, particularly because I had kept him apprised of our plans with Global Traffic Network. After I learned of this lawsuit, I called him but he has not returned my calls.

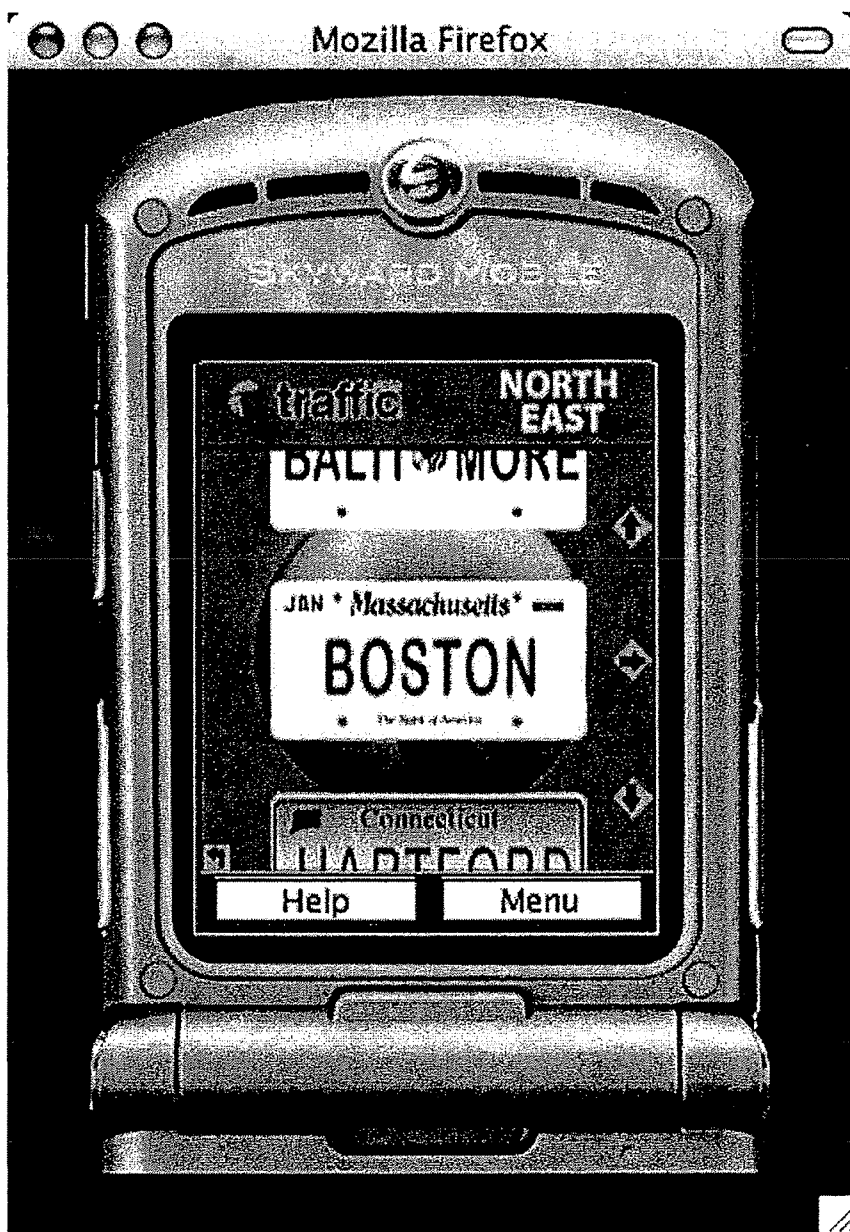
SKYWARD USES ITS APX TECHNOLOGY FOR TRAFFIC SOFTWARE

33. In or around August 2007, Skyward and Navteq entered into a partnership to develop and market a traffic application using Skyward's patent pending APX system.

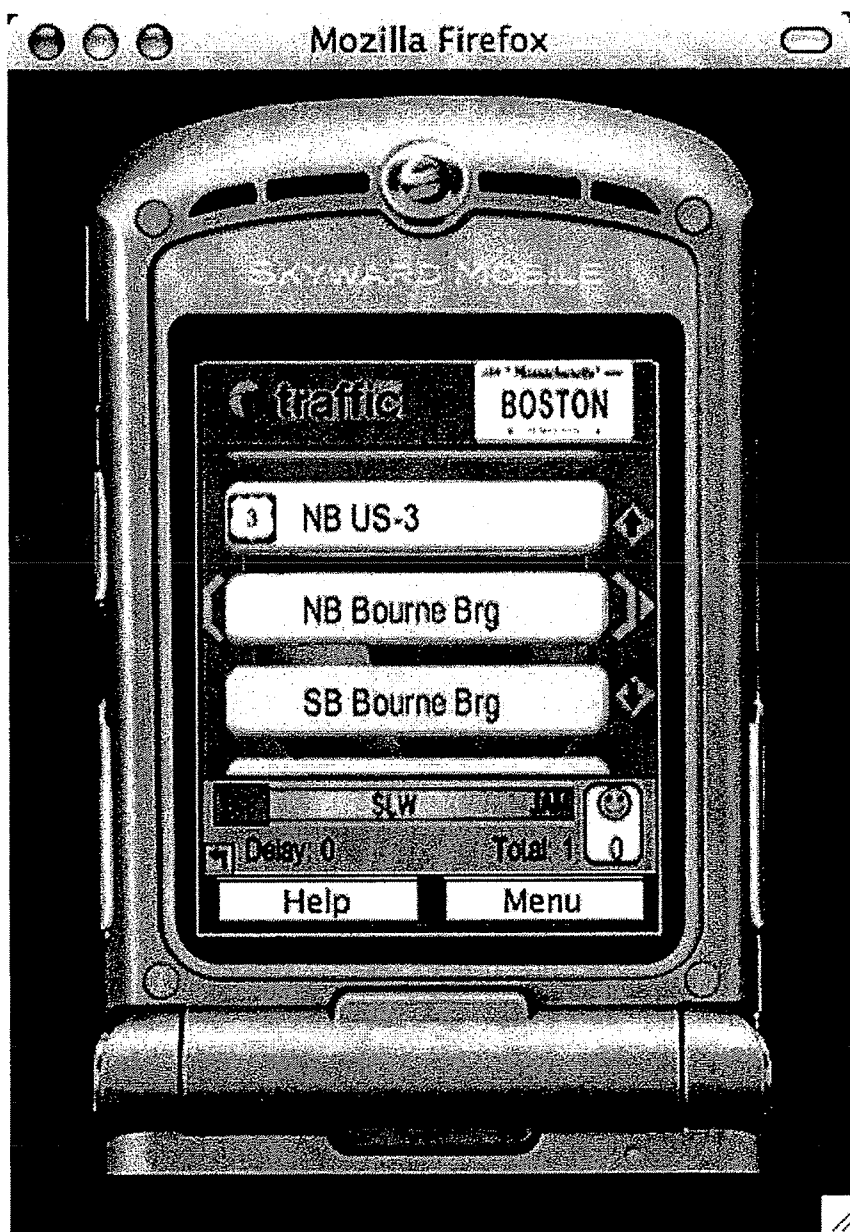
34. Skyward's traffic application ("Navteq Application") is completely different than the 3rd Dimension traffic application. First and foremost, it was built from scratch and does not use the same language. (The Navteq Application was written in Skyward's proprietary language called APX whereas the 3rd Dimension traffic application was written directly in PHP and J2Me). The source code in each application is completely different. Moreover, unlike the 3rd Dimension traffic application, the Navteq application is based upon a the highly generalizable APX platform, which has the ability to allow the delivery of streaming functionality (as opposed to just streaming data as the 3rd Dimension and most other applications allow); and thus has a completely different implementation. None of this and other robust functionality is available (or even possible) with 3rd Dimension's product. At the time Skyward developed the 3rd Dimension traffic application, the APX language had not yet been developed.

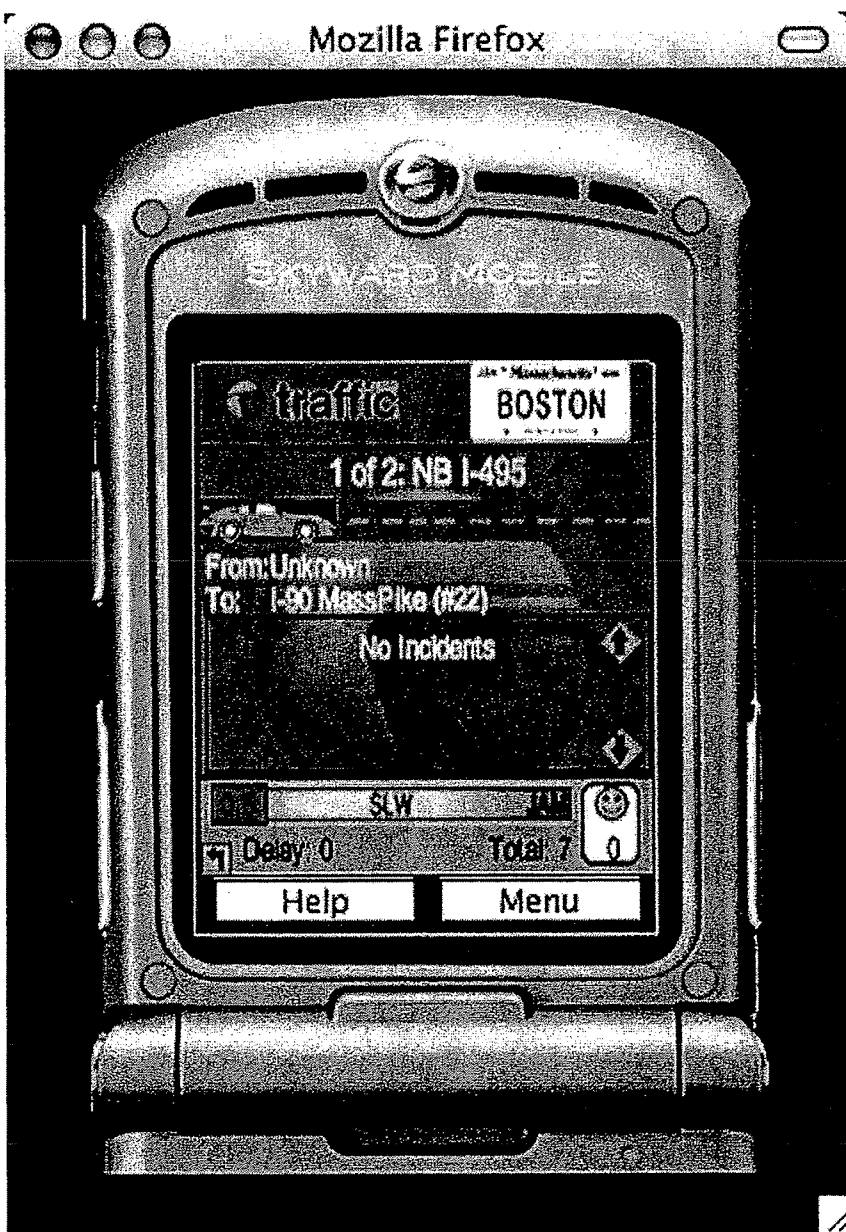
35. The Navteq Application also looks very different from the 3rd Dimension traffic application. For instance, and contrary to Mr. Laskin's affidavit, the Navteq Application does not use live traffic camera information, but rather presents the traffic data using computer generated images and a prerecorded movie with audit and video. The pictures below show the visual interface that the user sees with the Navteq Application.

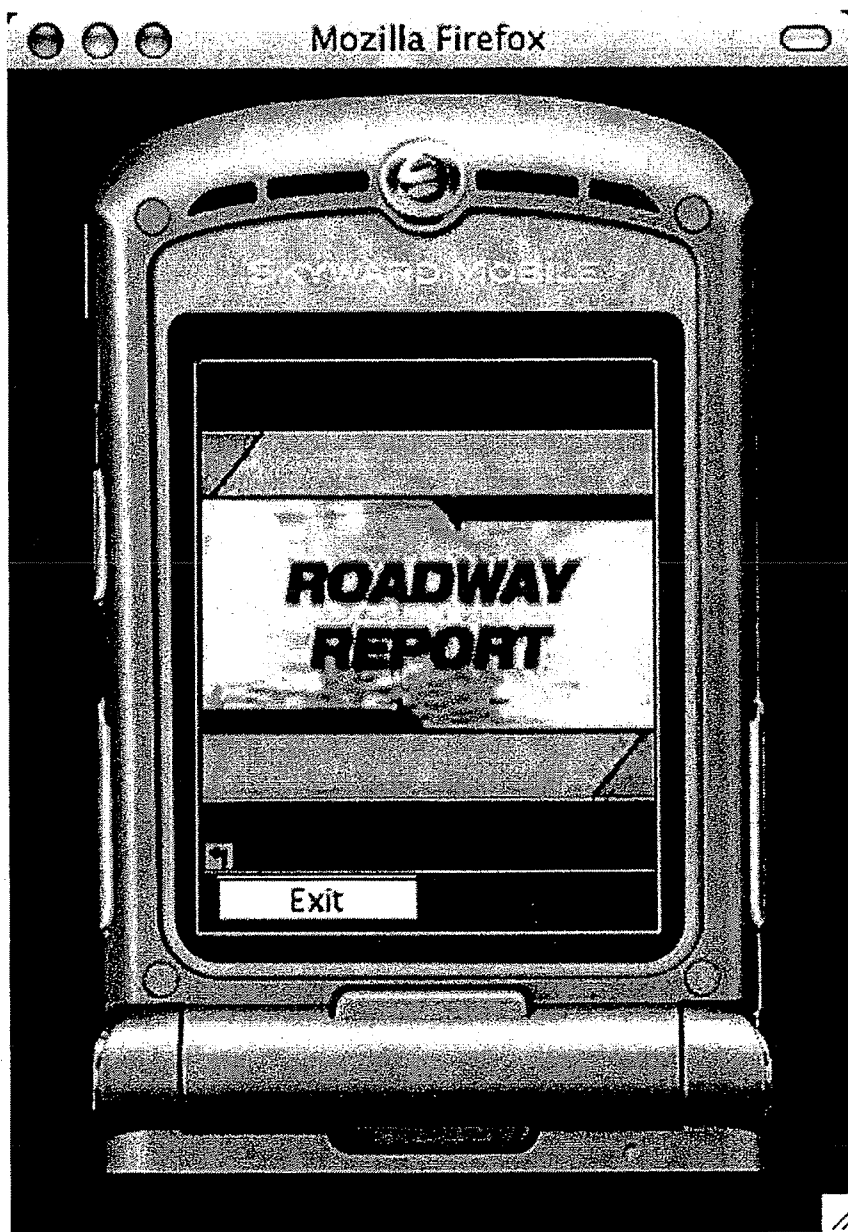












36. Unlike Petitioner's product, when a customer downloads the Navteq Application, what the customer is actually downloading is a thin client layer--the file is 60 kilobytes for a java-enabled phone--which compensates for a few of the issues on the device but, most important, forms a real-time link to the company's server. The intelligent server communicates with the client while application is running, and determines what functionality and feedback should be presented by the client, and in realtime compensates for the of the device's and the

network's particular variations. The server might compensate for perpetual issues, such as providing information on how to play video on a device that does not have a built-in system, or it might adjust for dynamic issues, such as fluctuations in available bandwidth.

37. In sum, the only thing that the Navteq Application and the 3rd Dimension application have in common is that they both provide information – information which is different, differently obtained, and differently presented– about traffic.

**SKYWARD WILL SUFFER IRREPARABLE HARM
SHOULD A PRELIMINARY INJUNCTION ISSUE.**

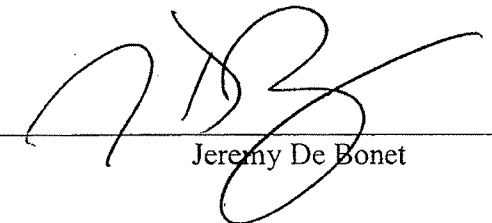
38. A preliminary injunction would have drastic implications for Skyward's business. An injunction itself, no matter what its scope, would have a negative impact on Skyward's relations with its partners, like Navteq; and others , such as Platinum Studios; resellers and distributors, such as Sprint/Nextel; potential customers, and potential investors. Even a limited injunction would cause confusion in the marketplace about precisely what technology belongs to Skyward and what belongs to 3rd Dimension, when Skyward followed every protocol to ensure that the programs not only remained separate but were vastly different in computer language and functionality.

39. The injunction would have a significant impact on Skyward's marketing to potential customers, resellers and partners because the injunction would create the impression that Skyward has done something wrong and stolen 3rd Dimension's trade secrets, which it has not. Customers are unlikely to want to do business with a company that may be using technology that is not theirs, potentially leaving them vulnerable to litigation.

40. In particular, Skyward's business model is based on its APX technology, upon which multitude of applications have been built, including its traffic application with Navteq. Without its ability to use and fully exploit that technology, Skyward would be put out of business.


41. Moreover, the Navteq Application will be marketed at the CTIA trade show next week in San Francisco at the Navteq booth. Skyward's inability to use its traffic application would prevent it from marketing, selling and otherwise exploiting its technology at one of the most significant events in the industry. It would irreparably damage our partnership with Navteq and potentially undermine Skyward's partnership agreement with Navteq, and other partners. Furthermore, such an action would interfere with Skyward's ability to exploit its significant investment in this conference to establish and contract relationships with new partners.

42. I trust that this Court will understand that Skyward did nothing wrong and that the respective programs are completely different. As such, no injunction should enter against Skyward or me.



Jeremy De Bonet

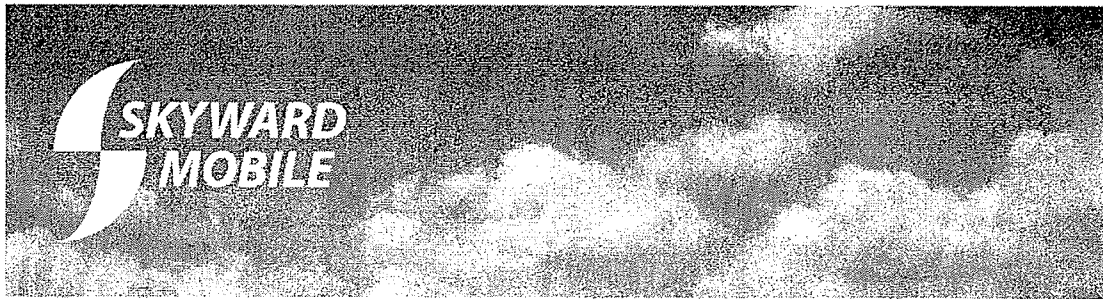
Sworn to me this
18th day of October, 2007



Notary Public 6/4/10

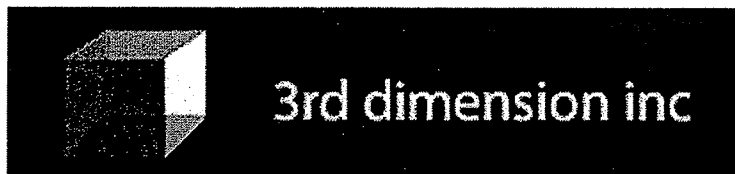
10755 v1/BN

EXHIBIT A



Proposal for Mobile Content Development

For



Skyward Mobile
130 New Boston Street
Suite 103
Woburn, MA 01801
www.skywardmobile.com
Tim Kilroy
(617) 899-2436
tim@skywardmobile.com

Overview

Third Dimension and Double Agent, after a successful market test to insure an appropriate marketplace, wish to mobilize the content available on www.doubleagent.com.

The subject matter of this site and content style are of specific interest to a heavily mobile demographic and also lend itself well to mobile consumption. The short-clip heavy video experience will create a compelling and engaging mobile experience.

Skyward Mobile's deep technology and mobile video experience will allow for us to create a world class experience that honors the Double Agent web experience and will allow Double Agent and Third Dimension to serve a wide audience.

Why Skyward Mobile?

Skyward Mobile is a leading provider of next generation mobile applications. With deep experience creating rich and complex media applications, Skyward Mobile is uniquely qualified to drive the development of a wide market reaching consumer application.

The mobile application development market is a complex and fragmented place. With dozens of carriers, thousands of handsets, and no true device standard or application protocols, the development of a mobile application is truly the recreation of the application again and again and again. Skyward Mobile has changed the development and economics of application development through the creation of the patent pending **Apx Platform**.

This "write-once, run anywhere" platform absolutely changes not only the development dynamics, allowing a single application to perform as well as possible across the widest array of mobile devices possible, but it also changes the economics of development. Typically, the development cycle includes the writing of an application, with extensive QA testing for a subset of phones. Then, the application is rewritten for another subset of phones. This process is repeated again and again. Then, when the platform changes, say from J2ME to Palm, the application needs to not only be re-written, but also rather re-architected for the new platform. Then the individual handset porting process must begin again. And the process

continues across multiple platforms. The economic reality of this process is that the work in developing an application for a platform, and then porting it to several phones is approximately the same. Each instance of porting can have nearly the same impact on dollars and time as the original development. Efficiencies in development never arise, and the development costs never diminish. These stark realities determine the success of a mobile application.

Simply, if it costs too much in dollars or time to port an application to a new platform, or to a less popular phone, the development will not be done, because there is no opportunity to recoup the cost of the effort or create a positive ROI. Skyward Mobile changes these dynamics and preserves the "long tail" of application distribution and revenue generation. This expansion of the market size can create dramatic revenue opportunities. In a subscription example, a \$2.99 monthly subscription opportunity targeted at Palm Treos might have a total market size of 1,000,000. However, if that same subscription opportunity were offered to the entire J2ME base in the United States, the market size might be 50-70 times the size. While it may seem like a simple task of "porting" the Palm application to J2ME, the J2ME US market is comprised of approximately 500 different handsets across nearly a dozen carriers. Potentially, this could mean a port cycle upwards of 5000 different versions of the original application. And these applications would be static, never changing according to unique conditions. This would take tens of thousands of developer hours, and potentially millions in additional development costs. And regardless of the market size, this opportunity may never be fully capitalized because of the scale and scope of the effort. An undertaking of this magnitude could force a company to allocate all of its development at this single project and compromise product innovation efforts. The Skyward Mobile Apx solution allows for single development, with multiple marketplace opportunities that have been heretofore lost because the cost of development exceeded the possible return for a particular marketplace. Apx gives brand owners, content owners and application owners the chance to create high-quality applications that can grow as the market changes, and continue to delight users across networks, across platforms and across continents.

The Application:

Skyward Mobile envisions an application where the current animated avatar, Amanda, or a similar avatar as the "host" of the application. The host can deliver the user to any one of the channels of the application, namely videos, buzz, dating, lifestyle. The remaining categories can be added, but they will have less content that transfers easily to mobile. The videos will be the bulk of the content because of their easy transference to the small screen.

The application will offer canned interaction with the avatar host. Users will be able to get responses to questions available from a pull-down menu, and also have the avatar insert user chosen words into a random story, similar to the popular game "Mad Libs".

The video presentation portion of the application will offer up an intuitive navigation system, as well as supporting the user voting as on the Double Agent site.

Further, the application will have an interface to a "call back" system. In this part of the application, the user can sign up to have a call, at a specific time. The idea behind this is that the user will be able to end a date, or seem like he is busier/more popular, etc. than he is. The functionality of this part of the application will be similar to that found on www.popularitydialer.com.

Deliverables and Fees

Deliverables: Skyward Mobile will deliver a J2ME version of the above-described application with 90 days. A beta version will be available no later than 75 days from kickoff. Additional platforms, such as Symbian, Windows Mobile, etc will come online roughly every 60-90 days after J2ME delivery. The look and feel for the application will be similar to the Double Agent website. Double Agent will provide the video and article content to Skyward Mobile via an XML feed of acceptable for to both parties. The avatar will be modeled after Amanda. However, if the actual Amanda avatar is available from Eidoserve and that is the

desired look and feel, Double Agent will secure whatever licensing rights are needed to provide Amanda in a mobile fashion. Double Agent will design the content of the callback service. The actual callback service will be operated by Skyward Mobile.

Fees:

Apx Licensing Fee (Year 1):

\$150,000.00

(Year 2 and Forward):

\$50,000.00

Application Development:

\$125,000.00

Call Back Service:

\$25,000.00

Per User Per Month Hosting Fee

(Minimum 5000 Users):

0-50,000 Users:

\$1.00

Users 50,000-100,000:

\$0.75

Users 100,001+:

\$0.50

Call Back Fee Per Call:

\$1.00

Payment Schedule:

Due At Engagement:

Apx Licensing Fee:	\$150,000.00
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Due at Beta Delivery:	\$62,500.00
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Due at Delivery:

Application Development Fee:	\$62,500.00
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Call Back Development Fee:	\$25,000.00
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Terms

The terms outlined in this proposal will be honored until December 31, 2006.

This letter serves as a written understanding between Skyward Mobile and 3rd Dimension Technology. It outlines the nature of this partnership, expectations for each organization, and a timeline for accomplishing these expectations. The term of this agreement is 2 years, with a repeating 1-year renewal on the anniversary date.

Upon execution of this agreement, both parties may elect to agree to an additional contract which may add additional detail to the legal rights and responsibilities of each party as outlined here.

Both parties agree to keep the terms of this agreement confidential.

This understanding may not be assigned or transferred to another party without the written consent of the other.